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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,512	01/06/2004	Tatsuya Ito	113112.01	3327
7590 11/23/2004				
OLIFE & BERRIDGE, PLC P.O. Box 19928 Alexandria, VA 22320			EXAMINER GORDON, RAQUEL YVETTE	
			ART UNIT 2853	PAPER NUMBER

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/751,512

Applicant(s)

ITO ET AL.

Examiner

Raquel Y. Gordon

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2853

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Preliminary amendment filed 3/17/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41 is/are rejected.
- 7) ☒ Claim(s) 42-44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/186427.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/22/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Acknowledgement of Preliminary Amendment

This is to acknowledge the Preliminary Amendment filed 3/17/2004.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claim 41 is rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 8 and 9 of prior U.S. Patent No. 6758550. This is a double patenting rejection. For example, US 6758550 recites:

41. (New) An apparatus for manufacturing a color filter, comprising: a plurality of nozzles for ejecting a filter material in droplets; and a plurality of heads, each head having the plurality of nozzles linearly arranged with a constant layout pitch of (D), the plurality of heads are arranged to form a linear row of nozzles (claims 9/8).

It is the Examiner's position the arrangement of angle between the heads of $0^\circ < \Theta < 180^\circ$ teaches the same invention as heads arranged to form a *linear* row of nozzles, as claimed, since the range taught inherently comprises head angles which result in linear relationships.

Allowable Subject Matter

Claims 42-44 are allowed.

Reasons for Indicating Allowability

The following is a statement of reasons for the indication of allowable subject matter. The following claimed limitations are not taught by the prior art of record:

42. (New) An apparatus for manufacturing an electroluminescence substrate, comprising:
a plurality of nozzles for ejecting a filter material in droplets; and
a plurality of heads, each head having the plurality of nozzles linearly arranged with a constant layout pitch of (D), the plurality of heads are arranged to form a linear row of nozzles.

43. (New) A method for manufacturing a color filter, comprising: scanning a substrate by moving a table and a plurality of heads; and ejecting a filter material in droplets by a plurality of heads, each head having a plurality of nozzles arranged with a constant layout pitch of (D), the plurality of heads are linearly arranged to form a linear row of nozzles.

44. (New) A method for manufacturing an electroluminescence substrate, comprising: scanning a substrate by moving a table and a plurality of heads; and

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ejecting a functional layer forming material in droplets by a plurality of heads, each head having a plurality of nozzles arranged with a constant layout pitch of (D), the plurality of heads are linearly arranged to form a linear row of nozzles.

Contact Information

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Raquel Y. Gordon, whose telephone number is (571) 272-2145. The Examiner can normally be reached on M - F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. A fax number is available upon request.

Any inquiry of a general nature or relating to the status of this application or proceeding may be directed to the Examiner or Supervisor.



Raquel Y. Gordon
Primary Examiner
Art Unit 2853
October 13, 2004

**RAQUEL GORDON
PRIMARY EXAMINER**